

General Information Letter: Question of whether an entity must register to do business in Illinois must be asked of the Secretary of State.

June 25, 2003

Dear:

This is in response to your letter dated May 22, 2003, in which you request information. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department. For your general information, the regulation governing the issuance of letter rulings, 2 Ill. Adm. Code Part 1200 regarding rulings and other information issued by the Department, can be accessed at the Department's website. That address is www.revenue.state.il.us/legalinformation/regs/part1200.

Although you have not specifically requested either type of ruling, the nature of your question and the information provided require that we respond only with a GIL.

In your letter you state as follows:

Please advise whether a Canadian corporation with no presence in the U.S. is required to register to do business in the State of Illinois under the following situations:

1. Canadian entity provides telephone and Internet computer support to Texas customers. A monthly fee is charged for the service. Does the Canadian corporation need to register to do business in Illinois?
2. Canadian entity has host server in Canada, and their software can be downloaded by Illinois customers. They also provide telephone and Internet computer support. A licensing fee, monthly maintenance fee, and monthly fee for support would be charged. The Canadian entity retains title to the software. Do they need to register to do business in Illinois?

We believe your correspondence has been misdirected. All correspondence regarding whether and how a foreign business should register to do business with the State of Illinois should be directed to:

Illinois Secretary of State
Department of Business Services
328 Howlett Bldg.
Springfield, Il. 62756
217-782-2880

Please note that Registration with the Illinois Department of Revenue is also required for foreign businesses who are registered with the Secretary of State to do business in Illinois and are required to file federal income tax returns. Enclosed please find a copy of Form NUC-1 along with its

instructions. Form NUC-1 is used to register businesses with the Illinois Department Of Revenue.

As stated above, this is a GIL which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you wish to obtain a PLR which will bind the Department with respect to the application of the law to specific facts, please submit a request conforming to the requirements of 2 Ill. Adm. Code Part 1200.

Sincerely yours,

Jackson E. Donley,
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